

MDR Tracking Number: M5-04-2608-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 4-05-04.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 4/05/04, therefore the following dates of service are not timely: 4/01/03-4/04/03.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, joint mobilization, therapeutic exercises, neuromuscular re-education, therapeutic activities, and myofascial release from 4/08/03 through 6/19/03 was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, the request for reimbursement for dates of service 4/08/03 through 6/19/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 21st day of July 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

Patient is a 36-year-old electrician who, on ___, while working in the bucket of a boom lift some 30-40 feet above the ground, was injured when a forklift on the ground struck his boom lift. This caused his boom lift to move suddenly from side to side and knocked him down, injuring his right shoulder, elbow and cervical spines. He then treated conservatively with a chiropractic and physical therapy.

REQUESTED SERVICE (S)

Office visits (99213), joint mobilization (97265), therapeutic exercise (97110), neuromuscular reeducation (97112), therapeutic activities (97530), and myofascial release (97250) from dates of service 04/08/03 through 06/19/03.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

This patient was seen and evaluated by ___ on 12/18/02. It was ___ opinion following his examination that the patient was exhibiting symptom magnification – specifically, that “his symptoms [were] out of proportion to his objective findings” – and that “upon distraction, [the patient’s] range of motion [was] much effortless unlike with testing.” Further, he noted another disparity in his report; that while the patient reported “no feeling” in the ulnar distribution of his right arm, ___ pointed out that there was usually only the presentation of decreased sensation associated with the clinical presentation of ulnar entrapment. Finally, ___ opined that the “healing period for such an injury [was] 8 to 12 weeks,” and that “future treatment would be reasonable for 4 more weeks at 3 times per week.” ___ stated in his report that he had even spoken with the treating doctor regarding this patient, and that ___ told him that “he thought four more weeks of rehab would help at three times per week, and then he would assign the impairment.”

In fact, the records fail to substantiate in any way whatsoever that the services in the listed as disputed fulfilled the requirements of Texas Labor Code 408.021 that states:

“a) an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to health care that:

- (1) Cures or relieves the effects naturally resulting from the compensable injury;
- (2) Promotes recovery; or
- (3) Enhances the ability of the employee to return to or retain employment.”

In fact, the medical records indicate the exact opposite since the patient obtained no relief from the treatments, promotion of recovery was not accomplished and there was no enhancement of the employee’s ability to return to or retain employment.